

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

ALBERT FLOWERS, JR.	§	
VS.	§	CIVIL ACTION NO. 1:18-CV-280
T. J. WATSON, ET AL.	§	

MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Albert Flowers, Jr., a former prisoner at the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se* and *in forma pauperis*, filed this civil action pursuant to *Bivens v. Six Unknown Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), against Warden T. J. Watson, Warden M. K. Lewis, and Dr. Margarita Laguna.

The court ordered that this matter be referred to the Honorable Zack Hawthorn, United States Magistrate Judge, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends dismissing the civil rights action pursuant to 28 U.S.C. § 1915(e) as frivolous and for failure to state a claim upon which relief may be granted.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration of all the pleadings and the relevant case law, the court concludes that the petitioner's objections lack merit.

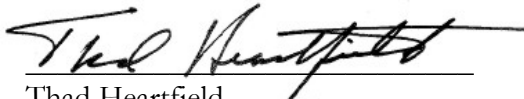
The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and the pleadings. In response to the report and recommendation, the plaintiff sent a letter to the court, which as been construed as objections to the magistrate judge's report and recommendation. The plaintiff's original and amended complaints

alleged that the plaintiff's removal from the Residential Drug Abuse Program violated his right to equal protection. The magistrate judge correctly concluded that the equal protection claim is frivolous and fails to state a claim upon which relief may be granted. In his objections, the plaintiff claims that his removal from the program violated rights guaranteed by the Americans with Disabilities Act (ADA). However, the ADA does not apply to the federal government. 42 U.S.C. § 12111(5)(B); *Pinkerton v. Spellings*, 529 F.3d 513, 517 (5th Cir. 2008); *Henrickson v. Potter*, 327 F.3d 444, 447 (5th Cir. 2003). Because the defendants are federal employees, the plaintiff has not stated a cause of action under the ADA. *Marlin v. Alexandre*, 2007 WL 3390995, at *1 (5th Cir. Nov. 15, 2007) (unpublished).

ORDER

Accordingly, the plaintiff's objections (document no. 26) are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge (document no. 24) is **ADOPTED**. A final judgment will be entered in accordance with the magistrate judge's report and recommendation.

SIGNED this the 18 day of May, 2020.


Thad Heartfield
United States District Judge